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APR 15 2005

In re Application of:
Hagen et al.
Serial No.: 09/993,266
Filed: November 19, 2001
Attorney Docket No.: **MAS-FIN-141**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed on December 10, 2004. The petition is being treated as a petition under 37 C.F.R. § 1.181, to withdraw the holding of abandonment of the above identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a response to the Final Office action mailed on March 11, 2003. A Notice of Abandonment was mailed on November 29, 2004.

Petitioner asserts that a Notice of Appeal was timely filed on July 15, 2003, bearing a certificate of mailing of July 11, 2003, along with a petition for a one-month extension of time, and subsequently that a Brief on Appeal was timely filed on September 22, 2003, bearing a certificate of mailing of September 15, 2003. To support this assertion, petitioner has submitted copies of the postcard receipts acknowledging receipt in the Office of the Notice of Appeal and the Brief on Appeal.

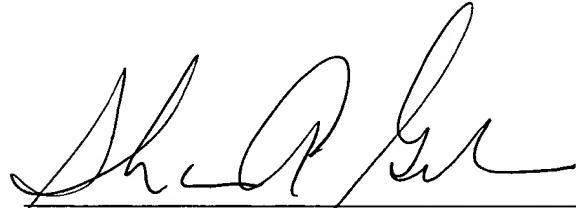
M.P.E.P. § 503 states, "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response was timely received in the Office. Furthermore, a review of the application file record reveals that the above-identified [responses] papers have now been received and matched with the application.

A proper reply under 37 C.F.R. § 1.113 to a final rejection consists of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 C.F.R. § 1.114.

Since the Notice of Appeal (with appeal fee) was timely filed on July 15, 2003, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The examiner will review the Appeal Brief and take appropriate action.

Inquiries regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

A handwritten signature in black ink, appearing to read 'Sharon A. Gibson', written over a horizontal line.

Sharon A. Gibson, Director
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